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April 12, 1978

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William A. Healy, P.E., Executive Director
Water Supply and Pollution Control Commission
Prescott Park, P.O. Box 95 - 105 Loudon Road
Concord, New Hampshire 03301

Attention: Terrence P. Frost, Chief Aquatic Biologist &
Director of Permits & Enforcement

Re: Opinion Request March 17, 1978: RSA 149-E:3(I)(a)

Dear Mr. Healy:

This opinion is in response to your letter of March 17, 1978, in which you requested advice concerning the administration by the Commission of fees authorized by House Bill 1000, enacted by the 1977 session by the New Hampshire Legislature, amending RSA 149-E:3 by inserting a new paragraph 3(I)(a) as follows:

FEES REQUIRED. Amend RSA 149-E:3 by inserting after Paragraph I the following new paragraph:

I-a. Any person submitting plans for subdivision of land shall pay to the Commission a fee of \$30 per lot. Said fee shall be for reviewing such plans and making site inspections. Any person submitting plans and specifications for sewage or waste disposal systems shall pay to the Commission a fee of \$30 for each system. Said fee shall be for reviewing such plans and specifications and making site inspections. The fees required by this paragraph shall be paid at the time said plans and specifications are submitted and shall be deposited with the Treasurer as unrestricted revenue.

In my opinion, the current practice which you outlined in your letter of March 17, 1978, is correct and should be adhered to.

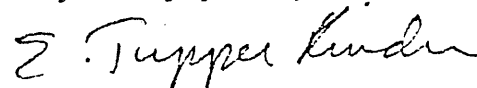
William A. Healy, P.E., Executive Director
April 12, 1978
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The purpose of RSA 149-E is to provide the Commission with the power to protect water supplies and to prevent pollution of surface waters by inadequate sewer or waste disposal systems. Under this Chapter, the Commission is given the authority to review and approve subdivisions of land to insure that such divisions of land will be accomplished in a manner such that immediate and future owners, lessees and occupants of each division shall be properly served by an acceptable waste disposal system.

The definitions presented in RSA 149-E:2 provide the guidelines by which the circumstances to which fee shall apply can be determined. Consistent with the definitions, a person submitting plans for the division of a tract of land into two or more lots for the purpose, whether immediate or future, of sale, rent, lease, building development or any other reason must pay the fee of \$30.00 per lot. The term "lot" is defined as a part of a subdivision which can be used as a building site or is intended to be used for building purposes, whether immediate or future. Given the statutory context, a lot to be used for building purposes refers to a part of a subdivision which can be used as a location for permanent shelter for a person or persons, or which can be or is intended to be served by a sewage waste disposal system whether individually or in connection with other lots. All lots which are intended to be used for building purposes are subject to review by the Commission and to the \$30.00 fee per lot.

The statute relating to fees being charged by the Commission is clear. Before reviewing plans for a subdivision of land, the Commission must receive from the person submitting such plans a fee of \$30.00 for each lot in the proposed subdivision. Similarly, before reviewing plans and specifications for sewage or waste disposal systems, the Commission must receive from persons submitting such plans a fee of \$30.00 for each system proposed.

Very truly yours,



E. Tupper Kinder
Assistant Attorney General
Environmental Protection Division

jlg